

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MANUEL MARTINEZ, individually and on
behalf of themselves and all other similarly
situated persons, known and unknown,

Plaintiff(s),

vs.

C STUDIO MANUFACTURING, LLC,

Defendant.

Case No.1:23-cv-2319

NOTICE OF REMOVAL OF C STUDIO MANUFACTURING, LLC

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant C Studio Manufacturing, LLC, by and through its counsel, hereby gives notice of removal of this action from the Circuit Court of DuPage County, Illinois, to the United States District Court for the Northern District of Illinois. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) because there is complete diversity between the parties and the amount in controversy exceeds the sum or value of \$75,000.

I. FACTUAL BACKGROUND

1. On March 9, 2023, Plaintiff Manuel Martinez filed a Class Action Complaint in the Circuit Court of DuPage County, Illinois, captioned *Manuel Martinez v. C Studio Manufacturing, LLC*, Case No. 2023CH000053. A copy of the Complaint is attached hereto as Exhibit 1. Other filings available on the state court docket are attached hereto as Exhibit 2. Plaintiff purported to effectuate service of the Complaint on C Studio on March 15, 2023, and a copy of the service of

process receipt, summons, proof of service, and Illinois Supreme Court Rule 222(b) damages affidavit are attached hereto as Exhibit 3.

2. Martinez alleges that they are a “resident of Carpentersville, Illinois.”¹ Ex. 1 (“Compl.”) ¶ 2.

3. Martinez alleges that C Studio “is a LLC in the business of home organization and cabinets manufacturer, including in Elmhurst, Illinois.” Compl. ¶ 3. The Complaint does not allege C Studio’s citizenship for purposes of diversity jurisdiction. C Studio is a limited liability company organized under the laws of the State of Delaware, and its sole member is The Container Store, Inc., a Delaware corporation with its principal place of business in Texas. Accordingly, C Studio is a citizen of the States of Delaware and Texas for purposes of diversity jurisdiction. *See* 28 U.S.C. § 1332(c)(1); *Wise v. Wachovia Securities, LLC*, 450 F.3d 265, 267 (“The citizenship for diversity purposes of a limited liability company . . . is the citizenship of each of its members.”).

4. The Complaint alleges that C Studio violated Martinez’s rights under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, *et seq.* (“BIPA”), in a variety of ways.

II. THE ABOVE-CAPTIONED ACTION IS SUBJECT TO THE COURT’S DIVERSITY JURISDICTION

5. A federal court has diversity jurisdiction over an action if two requirements are met: (1) there is complete diversity of citizenship between plaintiff and defendant, and (2) the amount in controversy exceeds \$75,000, exclusive of interest and costs. *See* 28 U.S.C. § 1332(a). As shown below, each of these requirements is met here.

¹ Martinez uses they, them, and theirs as their pronouns in their Complaint.

A. Diversity Of Citizenship

6. According to the Complaint, Martinez is a resident of Carpentersville, Illinois, who worked at C Studio's premises in Elmhurst, Illinois. Compl. ¶¶ 2-3, 22. Although a person's State of residence does not necessarily dictate their State of citizenship, given that the Complaint alleges that Martinez resides and worked in Illinois and does not allege that they lived or worked in any other State, the Complaint indicates that Martinez is a citizen of the State of Illinois for purposes of diversity jurisdiction.

7. As noted above, C Studio is a citizen of the States of Delaware and Texas for purposes of diversity jurisdiction.

8. Accordingly, complete diversity of citizenship thus exists between Martinez and C Studio. *See* 28 U.S.C. § 1332(a).

B. Amount In Controversy

9. As there is complete diversity between the parties, this Court has original jurisdiction as long as the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. § 1332(a).

10. The Complaint alleges that Martinez is entitled to statutory damages of \$1,000 for "each and every" negligent violation of BIPA and \$5,000 for "each and every" intentional or reckless violation of BIPA. Compl. ¶ 35 & Prayer for Relief §§ d-e. The Complaint further alleges that Martinez was "required to scan their fingerprints and/or other biometrics into [C Studio's] biometric timekeeping device each time they needed to 'clock-in' and 'clock-out.'" Compl. ¶ 24. And the Complaint alleges Martinez worked at C Studio's facilities "[f]or the time period of 2013 until July 2022." *Id.* Given these allegations, the Complaint seeks damages for Martinez well in excess of \$75,000.

11. Plaintiff seeks injunctive relief as well, which is properly included in the amount-in-controversy calculation. See *Keeling v. Esurance Ins. Co.*, 660 F.3d 273, 274 (7th Cir. 2011) (including injunctive relief in amount-in-controversy determination). Although the Complaint fails to identify the specific injunctive relief sought, it states that Martinez seeks an award of “injunctive and equitable relief as necessary to protect the interests of Plaintiff and the Class by requiring Defendant to comply with the BIPA requirements for the capture and collection of biometrics, as well as requiring Defendant to comply with the written retention policy requirements of 740 ILCS 14/15(a).” Compl. at Prayer for Relief § c. Any request for injunctive relief, if ordered by the Court, could impose costs on C Studio that would only add to the amount in controversy, which already exceeds the jurisdictional threshold.

12. C Studio denies any and all liability, contends that the Complaint’s allegations are entirely without merit, and denies that class treatment is appropriate in this case. For purposes of this Notice of Removal, however, taking the Complaint’s factual and legal allegations as true, the amount-in-controversy for Martinez’s individual claims alone well exceeds \$75,000, exclusive of interest and costs, and thus satisfies the amount-in-controversy jurisdictional requirement for diversity jurisdiction.

III. COMPLIANCE WITH REMOVAL STATUTE

13. The Notice of Removal was properly filed in this District because the Circuit Court of DuPage, Illinois, is located in this District. See 28 U.S.C. § 1441(a); 28 U.S.C. § 93(a)(1).

14. The Notice of Removal is signed pursuant to Federal Rule of Civil Procedure 11. See 28 U.S.C. § 1446(a).

15. Pursuant to 28 U.S.C. § 1446(a), attached hereto and marked as Exhibits 1, 2, and 3 are true and correct copies of the Complaint, other filings available on the state court’s docket, and all process, pleadings, and orders served upon C Studio. C Studio has not filed an answer or

other response to the Complaint in state court prior to removal and is not aware of any pending motions filed under Illinois procedural rules in state court.

16. The Notice of Removal is filed within 30 days of service of the Complaint on C Studio, and therefore this Notice of Removal is thus timely under 28 U.S.C. § 1446(b)(1).

17. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on counsel for Martinez, and a copy, along with a Notice of Filing of the Notice of Removal, is today being filed with the Clerk of the Circuit Court of DuPage County, Illinois.

18. C Studio reserves the right to amend or supplement this Notice of Removal. C Studio further reserves all rights and defenses, including those available under the Federal Rule of Civil Procedure and any other applicable rules, statutes, or case law.

IV. CONCLUSION

C Studio respectfully requests that this Court exercise jurisdiction over this action and enter orders and grant relief as may be necessary to secure removal and to prevent further proceedings in this matter in the Circuit Court of DuPage County, Illinois. C Studio further requests such other relief as the Court deems appropriate.

Dated: April 13, 2023

Respectfully submitted,

/s/ Robert C. Collins III

Robert C. Collins III, one of the Attorneys for
Defendant C Studio Manufacturing, LLC

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CERTIFICATE OF SERVICE

I, Robert C. Collins III, hereby certify that I caused a copy of the foregoing to be served on the parties listed below, by email and prepaid, First Class United States mail, on April 13, 2023.

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Dated: April 13, 2023

/s/ Robert C. Collins III

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